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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,960	06/14/2005	Laurent Cauvin	PF020161	7506
24498	7590	01/15/2008		
THOMSON LICENSING LLC Two Independence Way Suite 200 PRINCETON, NJ 08540			EXAMINER SUGLO, JANET L	
			ART UNIT 2857	PAPER NUMBER
			MAIL DATE 01/15/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,960	Applicant(s) CAUVIN ET AL.	
	Examiner Janet Suglo	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. The disclosure is objected to because of the following informalities:

Before line 5 of page 1, --FIELD OF THE INVENTION-- should be entered.

After line 10 of page 1, --BACKGROUND OF THE INVENTION-- should be entered.

After line 21 of page 3, --SUMMARY OF THE INVENTION-- should be entered.

After line 11 of page 11, --BRIEF DESCRIPTION OF THE DRAWINGS-- should be entered.

After line 34 of page 11, --DETAILED DESCRIPTION-- should be entered.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. **Claims 13 and 14** are rejected under 35 U.S.C. 101 because the claims are directed to neither a "process" nor a "machine," but rather embrace or overlap two

different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. See MPEP 2173.05(p) Section II.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 4 and 5** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the phrase "a first type of results consisting of numbers of the occurrences per slot of durations of gaps between two of the consecutive occurrences" means in lines 3-5 of claim 4. It appears to mean that the first type of results is counting the number of occurrences that are between consecutive occurrences. This would make the two consecutive occurrences *not* consecutive, and therefore renders the claim indefinite. It could also be interpreted to mean that the results are many (i.e., numbers) occurrences during the gaps between two consecutive occurrences. Again this would make the two consecutive occurrences *not* consecutive, and therefore renders the claim indefinite

7. **Claims 13 and 14** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 13 and 14 is a single claim which

claims both an apparatus and the method steps of using the apparatus and as such is indefinite under 35 U.S.C. 112, second paragraph. See MPEP 2173.05(p) Section II.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-6 and 9-14** are rejected under 35 U.S.C. 102(b) as being anticipated by Rainey et al. (US Patent 5,799,315) (hereinafter "Rainey").

With respect to **claim 1**, Rainey teaches a device for temporal metering of events (e.g., Abstract), comprising:

means for associating a current time with each input of occurrence of a physical event (e.g., col 2, ln 1-9),

means for summary processing of said occurrences and of the current times so as to produce condensed results (e.g., col 8, ln 37-48);

and means for recording in at least one metering file of information containing said condensed results in predefined data structures of prefixed sizes so as to make it possible to keep the size of said file constant during successive recordings of said information, said information authorizing an at least partial temporal reconstruction of the occurrences (e.g., col 6, ln 1-31; col 8, ln 14-22).

With respect to **claim 2**, Rainey teaches the summary processing module is designed to produce at least two types of distinct results at least one of said types of results comprising redundancies with respect to the other types of results, so as to allow checks of consistency of said results (e.g., col 8, ln 37-48).

With respect to **claim 3**, Rainey teaches the summary processing module is designed so that the types of results provide complementary information (e.g., col 8, ln 37-48).

With respect to **claim 4**, Rainey teaches the types of results comprise:
a first type of results consisting of numbers of the occurrences per slot of durations of gaps between two of the consecutive occurrences (e.g., col 9, ln 35-40)
and a second type of results consisting of numbers of the occurrences per consecutive time slot of a predetermined period (e.g., col 9, ln 23-29).

With respect to **claim 5**, Rainey teaches the slots of durations of gaps of the first type of results have amplitudes increasing not strictly with the durations (e.g., col 9, ln 23-40).

With respect to **claim 6**, Rainey teaches the physical events comprise calls to a piece of software situated on a source machine by appliances (e.g., pen) able to communicate with the machine (e.g., notebook computer) (e.g., col 2, ln 1-14).

With respect to **claim 9**, Rainey teaches the physical events comprise uses of computer functionalities available on a machine (e.g., note taking) and liable to undergo malfunctions on account of technical problems (e.g., col 2, ln 1-14).

With respect to **claims 10 and 14**, Rainey teaches a method of temporal metering of events comprising the steps of (e.g., Abstract);

associating a current time with each input of occurrence of a physical event (e.g., col 2, ln 1-9),

processing said occurrences and said current times so as to produce condensed results (e.g., col 8, ln 37-48),

recording in at least one metering file, information containing the condensed results, in predefined data structures of prefixed sizes, so as to make it possible to keep the size of the file constant during successive recordings of the information, the information authorizing an at least partial temporal reconstruction of the occurrences (e.g., col 6, ln 1-31; col 8, ln 14-22).

With respect to **claims 11 and 13**, Rainey teaches a module for extracting the results recorded in the file (e.g., col 8, ln 37-40),

a module for verifying consistencies of results respectively of the types of results (e.g., col 8, ln 37-48, col 8, ln 54-65),

and a module for producing a warning signal intended for a user in the case of inconsistency of the results (e.g., col 8, ln 54-65).

With respect to **claim 12**, Rainey teaches a module for inputting requests of a user, the requests pertaining to temporal cues relating to the occurrences of the events (e.g., col 4, ln 10-15).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rainey in view of Longman et al. (US PGPub 2002/0064260) (hereinafter "Longman"). Rainey teaches all the limitations of parent claim 1, but does not teach that the physical events include telephone calls. Longman teaches recording the time of telephone calls (Longman: [0032]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Rainey to include the telephone calls of Longman because the occurrence data would allow the skilled artisan transmit the data remotely for more accurate and detailed analysis.

12. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rainey in view of Klein (US Patent 5,541,845). Rainey teaches all the limitations of parent claim 1, but does not teach that the physical events comprise predefined maneuvers in a motor vehicle. Klein teaches monitoring the movement of a vehicle along a planned route (Klein: col 3, ln 16-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Rainey to include the maneuvers in a motor vehicle as done by Klein because this will identify a problem and provide a solution by allowing the schedule and/or route to be modified (Klein: col 1, ln 19-24).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Weinberger et al. (US Patent 4,122,308) teaches a telephone call metering device.

Hady et al. (US Patent 6,564,175) teaches determining application runtimes based on histogram or distribution information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet Suglo whose telephone number is 571-272-8584. The examiner can normally be reached on Monday - Thursday from 6:30am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Janet L Suglo
January 5, 2008

Hal Wachsmen
HAL WACHSMAN
PRIMARY EXAMINER
2857